



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Nitzan Melamed**

Application No: **10/620,444**

Group Art Unit: **3624**

Filed: **July 17, 2003**

Examiner: **TBA**

Title: **CONSTANT VOLATILITY OR RISK INDICES**

Attorney Docket No: **286643.121 US1**

Honorable Commissioner of Patents  
and Trademarks  
Washington, DC 20231

**PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)**

Sir:

Applicant requests that this application be made special and taken out of order on the grounds that this invention is patentable over the references obtained from an International Search Report and a pre-examination search. 37 C.F.R. §1.102(d), MPEP 708.02 VIII Special Examining Procedure for Certain New Applications – Accelerated Examination, provides that the U.S. Patent and Trademark Office will accord special status to new patent applications that (a) submit a petition to make special accompanied by the fee set forth in 37 C.F.R. §1.17(h); (b) present all claims directed to a single invention; (c) submits a statement that a pre-examination search was made, listing the field of search by class and subclass, publications, etc.; (d) submit one copy of each reference deemed most closely related to the subject matter encompassed by the claims if said references are not already of record or a search made by a foreign patent office; and (e) submit a detailed discussion of the references pointing out how the claimed subject matter is patentable over the references.

Applicant submits that all required criteria for granting this petition have been met, as set forth below.

**I. The International Search Report**

Applicant submits that an International Search Report has been established, and a copy of the report had been submitted with the Information Disclosure Statement of August 27, 2006. The international search report considers the following documents to be relevant.

**A. US Patent Number 5,761,442**

Barr et. al. (US Patent Number 5,761,442), hereafter “Barr,” provides “a data processing system to develop and administer an investment portfolio expected to outperform ... broad indices associated with domestic or foreign capital markets.” (Column 3, lines 33-36) The system disclosed by Barr uses “neural networks which can be trained to make predictions of the relative performance of a stock over a predetermined period of time vis-a-vis the risk adjusted return of the corresponding market index.” (Column 3, lines 52-56)

Barr provides a system for “selecting a portfolio of securities expected to provide ... a return superior to a risk-adjusted performance of a selected market index.” (*See* Barr, Claim 1) Nowhere does Barr indicate that a constant target level of risk is established. In contrast, the claim 1 recites “establishing a constant target level of risk at which to maintain said index.” (*See* Claim 1)

**B. US Patent Number 6,078,904**

George J. Rebane (US Patent Number 6,078,904), hereafter “Rebane,” relates to selecting investments for a user portfolio according to the tolerance of a user (Column 4, lines 28-34) as opposed to “monitoring [a] level of risk” or “rebalancing [an] index ... thereby at least substantially maintaining a specified risk level,” as recited by Claim 1.

**C. US Patent Number 5,812,988**

Michael J. Sandretto (US Patent Number 5,812,988), hereafter “Sandretto,” discloses a method to “estimate an asset’s risk and net present value (NPV).” (Column 8, lines 52-53) The method disclosed by Sandretto “(1) estimates an asset’s operating, financing and accounting

characteristics, (2) estimates general and sector economic relations, and (3) estimates certain current economic conditions, such as interest rates, and to create a portfolio based on the estimated asset risk and NPV.” (Column 8, lines 53-59) In contrast, claim 1 recites a “method for implementing a constant volatility index, the index having an associated risk,” which includes a step of “rebalancing [an] index ... thereby at least substantially maintaining a specified risk level.” The invention disclosed by Sandretto does not recite this feature:

**D. US Patent Number 6,021,397**

Jones et. al. (US Patent Number 6,021,397), hereafter “Jones,” provides a financial advisory system that simulates interactively, “return scenarios for optimized portfolio allocations... to facilitate financial product selection.” (Column 2, lines 49-51) According to Jones, the optimal portfolio “maximizes the utility function of the user by selecting financial products that are available to the user and provide the highest possible utility given the user’s risk tolerance, investment horizon and savings level.” (Column 2, lines 26-30)

Claim 1 of the present invention recites a “method for implementing a constant volatility index, the index having an associated risk,” which includes a step of “rebalancing [an] index ... thereby at least substantially maintaining a specified risk level.” Jones does not provide a system for implementing a constant volatility index by maintaining a specified risk level.

**II. Patentability Search**

Applicant submits that a patentability search for the claimed invention was conducted in the following areas:

**A. Classification search**

Class	Subclasses	Description
705/		<b>Data Processing: Financial, Business Practice, Management, or Cost/price Determination</b>
	1	Automated Electrical Financial or Business Practice or Management Arrangement
	10	Market analysis, demand forecasting or surveying
	35	Finance (e.g., banking, investment or credit)
	36	Portfolio selection, planning or analysis

	37	Trading, matching, or bidding
	38	Credit (risk) processing or loan processing (e.g., mortgage)

**B. Online Literature Search**

An online literature search was conducted utilizing the following databases and search engines: Dialog, <<http://www.dialogclassic.com/>>; Espacenet, <<http://gb.espacenet.com>>; and Google, <[www.google.com](http://www.google.com)>.

**C. Commercial Online Database Search**

An online literature search was conducted utilizing the following commercial databases:

ABI/INFORM (1971+)

Business & Management Practices® (1995+)

EconLit (1969+)

Financial Times Fulltext (1995+)

Gale Group Management Contents® (9/1986+)

Gale Group PROMIT® (1990+)

Gale Group Trade & Industry Database™ (1981+)

New York Times – Fulltext (1/1998+)

Periodical Abstracts PlusText™ (1986+)

Social SciSearch® (1972+)

Wall Street Journal Abstracts (1973+)

Wilson Business Abstract Full Text (9/1984+ abstracts; 1994+ fulltext)

**D. Discussion of Related References from Patentability Search**

A discussion of the related references identified from the patentability search is presented below.

**1. US Patent Number 5,819,238**

Fernholz et al. (US Patent Number 5,819,238), hereafter “Fernholz,” discloses an apparatus “for automatically modifying a financial portfolio having a pre-defined universe of securities.”

Claim 1 of the present invention recites a “method for implementing a constant volatility index, the index having an associated risk,” which includes the step of “rebalancing [an] index ... thereby at least substantially maintaining a specified risk level.” Fernholz does not teach a technique for implementing a constant volatility index with an associated risk. Instead, Fernholz manages “an index fund, that tracks a given capitalization weighted index, through dynamic re-weighting of a position held in each such security” relative to others in the portfolio. (*See* Abstract)

**2. US Patent Number 6,493,682 B1**

Horrigan et al. (US Patent Number 6,493,682 B1), hereafter “Horrigan,” discloses a “method for determining whether to execute an order (or list of orders) immediately, or delay execution in exchange for possible price savings.” (Column 3, lines 26-29) The method “enables the investor to optimize order decisions given individual beliefs about expected security returns and variance, risk aversion, and portfolio investment goals.” (Column 3, lines 29-33) In contrast, the claimed invention discloses a technique for “implementing a constant volatility index, the index having an associated risk,” which includes the step of “rebalancing [an] index ... thereby at least substantially maintaining a specified risk level,” as recited in claim 1.

**3. US Patent Publication Number 2003/0069826 A1**

Guidi et al. (US Patent Publication Number 2003/0069826 A1), hereafter “Guidi,” discloses a method for “automated generation of hedging orders to hedge a financial exposure associated with a first financial instrument (e.g., to hedge a risk associated with the value of an option).” (*See* paragraph 0012) Claim 1 of the present invention recites “implementing a constant volatility index, the index having an associated risk,” which includes the step of “rebalancing [an] index ... thereby at least substantially maintaining a specified risk level,” as recited in claim 1. Guidi does not disclose the feature recited in claim 1 of the present invention.

**4. US Patent Publication Number 2002/0138386 A1**

Maggioncalda et al. (US Patent Publication Number 2002/0138386 A1), hereafter “Maggioncalda,” discloses a financial advisory system “based upon estimated future scenarios of

one or more economic factors” for optimized portfolio allocations that are “simulated interactively to facilitate financial product selection.” (*See* paragraph 0012)

Claim 1 of the present invention recites a “method for implementing a constant volatility index, the index having an associated risk,” which includes the step of “establishing a constant target level of risk at which to maintain said index.” Maggioncalda does not provide a system for implementing a constant volatility index with an associated risk.

### **III. Conclusion**

Applicant respectfully submits that, as described above, the cited references do not show or suggest at least the aforementioned features recited in the claims of the present invention. For all the reasons advanced above, Applicant respectfully requests the Commissioner to grant a petition for accelerated examination.

**IV. Authorization**

The Commissioner is hereby authorized to charge any fee for such a petition to make special or credit any overpayment for a petition to make special to deposit account no. 08-0219.

Respectfully submitted



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